

Appl. No. : 10/754,917
Filed : January 9, 2004

REMARKS

In the October 10, 2007 Office Action, the Examiner:

rejects Claims 1, 3-5, 8, 12, 14-16, 19, 21, 23, 25, 27, 32, 34, 35, 37-40, and 50 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,613,942 by Chen ("Chen");

rejects Claims 6, 17, 20, 28, and 31 under 35 U.S.C. § 103(a) as being unpatentable over Chen in view of U.S. Patent No. 5,832,100 to Lawton, et al. ("Lawton");

rejects Claims 7, 9, 10, 18, 26, 29, and 30 under 35 U.S.C. § 103(a) as being unpatentable over Chen in view of Luebbert (Communications of the ACM, Volume 7, Issue 12) ("Luebbert");

rejects Claims 11 and 22 under 35 U.S.C. § 103(a) as being unpatentable over Chen in view of Se, et al. (The International Journal of Robotics Research, Vol. 21, No. 8) ("Se");

rejects Claim 33 under 35 U.S.C. § 103(a) as being unpatentable over Chen in view of U.S. Patent No. 3,989,929 to Treiber ("Treiber");

rejects Claim 36 under 35 U.S.C. § 103(a) as being unpatentable over Chen in view of Wuschack (IBM Quality Assurance Operating Procedure, Book 1, Volume 03, Subject 109) (Wuschack);

rejects Claims 41, 43-44, 46-47, 49, and 54 under 35 U.S.C. § 103(a) as being unpatentable over Chen in view of U.S. Patent No. 6,711,293 to Lowe ("Lowe"); and

rejects Claims 51-53 and 55 under 35 U.S.C. § 103(a) as unpatentable over Chen;

Applicants request reconsideration of the rejections in view of the foregoing amendments and the following comments.

Rejections of Independent Claims 1, 12, and 23

The Examiner rejects Claims 1, 12, and 23 as being anticipated under 35 U.S.C. § 102(b) by Chen. The Examiner states that Chen, at Column 3, lines 35-49 and Column 5, lines 6-13, discloses "a mobile robot, wherein control includes mobility of the mobile robot."

While Chen does disclose a robot, Applicants disagree that Chen discloses a *mobile* robot, that is, a robot that is capable of moving itself. To clarify a reasonable interpretation of "mobile robot," Applicants have amended Claims 1 and 12 to read "wherein the computer program is configured to control mobility of the mobile robot as a whole away from a current position." Applicants have amended Claim 23 to read "wherein at least a portion of the behavior

Appl. No. : 10/754,917
Filed : January 9, 2004

is configured to control mobility of the mobile robot as a whole away from a current position.” These amendments are supported by, for example, paragraph [0050].

Chen’s robot as a whole is not mobile and could not move away from a current position as a whole. Rather, Chen describes a “conveyor means for moving said part to said robot arm,” (Col. 57, lines 53-54).

While an Examiner is permitted to interpret claim language broadly, such interpretation must nonetheless be reasonable. “The Patent and Trademark Office (“PTO”) determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction ‘in light of the specification as it would be interpreted by one of ordinary skill in the art,’” see MPEP 2111, citing *Phillips v. AWH Corp.*, 415 F.3d 1303, 75 USPQ2d 1321 (Fed. Cir. 2005). Applicants respectfully submit that it would not be reasonable to interpret Claim 1, Claim 12, or Claim 23 so that it reads on a robot that could not move away as a whole from a current position.

Thus, under a reasonable claim interpretation of Claim 1, Claim 12, or Claim 23, Chen does not teach or suggest, for example: “arranging the one or more executable program instructions to create at least a portion of a computer program for control of the mobile robot, wherein the computer program is configured to control mobility of the mobile robot as a whole away from a current position,” as recited in Claim 1, “arranging the one or more executable program instructions to create at least a portion of a computer program for control of the mobile robot, wherein the computer program is configured to control mobility of the mobile robot as a whole away from a current position,” as recited in Claim 12, or “controlling a behavior of the mobile robot according to the recognized indicia, wherein at least a portion of the behavior is configured to control mobility of the mobile robot as a whole away from a current position,” as recited in Claim 23.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference,” see MPEP § 2131, citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Appl. No. : 10/754,917
Filed : January 9, 2004

Therefore, Applicants respectfully maintain that Chen does not teach or suggest Applicants' invention as defined by Claim 1, Claim 12, or Claim 23, and Applicants request allowance of Claims 1, 12, and 23.

Rejections of Independent Claims 41, 44, and 47

The Examiner rejects Claims 41, 44, and 47 under 35 U.S.C. § 103(a) as being unpatentable over Chen in view of Lowe. In rejecting Claims 41, 44, and 47, the Examiner states that Chen "discloses wherein the device corresponds to a mobile robot, wherein at least a portion of the associated behavior includes mobility of the mobile robot (Column 3, lines 35-49; Column 5, lines 6-13)."

Applicants have amended Claims 41, 44, and 47 to clarify that "the computer program is configured to control mobility of the mobile robot as a whole away from a current position," as recited in Claim 41, that "at least a portion of the one or more executable program instructions is configured to control mobility of the mobile robot as a whole away from a current position," as recited in Claim 44, and that "at least a portion of the one or more executable program instructions is configured to control mobility of the mobile robot as a whole away from a current position," as recited in Claim 47. These amendments are supported by, for example, paragraph [0050]. Applicants respectfully submit that a robot with such mobility is not taught or suggested by Chen, nor by Lowe.

In order "[t]o establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art." *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Therefore, Applicants respectfully maintain that the combination of Chen and Lowe does not teach or suggest the invention as claimed by Claim 41, Claim 44, or Claim 47. Accordingly, Applicants request allowance of Claims 41, 44, and 47.

Rejection of Independent Claim 35

The Examiner rejects Claim 35 as being anticipated under 35 U.S.C. § 102(b) by Chen. The Examiner states that Chen, at Column 4, lines 28-56 discloses "a set of one or more cards with indicia associated with operators, flow control, actions for a computer and commands. Further, each card has a portion comprising graphical indicia and a portion comprising computer-readable instructions."

Appl. No. : 10/754,917
Filed : January 9, 2004

Applicants have amended Claim 35 to clarify the claimed invention. In particular, Applicants have amended Claim 35 to clarify that "at least one of the operator flow control cards has a flow control parameter associated with a "break" instruction configured to terminate a programmatic loop being executed by the mobile robot." This amendment is supported by paragraph Table II. This type of flow control is not taught or suggested by Chen.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference," see MPEP § 2131, citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Therefore, Applicants respectfully maintain that Chen does not teach or suggest Applicants' invention as defined by amended Claim 35, and Applicants request allowance of the same.

Dependent Claims 3-5, 8, 14-16, 19, 21, 25, 27, 32, 34, 37-40, and 50

Dependent Claims 3-5, 8, 14-16, 19, 21, 25, 27, 32, 34, 37-40, and 50 depend from and further define one of Claims 1, 12, 23, and 35, or a dependent thereof. The dependent claims recite numerous additional distinctions over the cited references. In addition, Applicants respectfully submit that the rejections to dependent Claims 3-5, 8, 14-16, 19, 21, 25, 27, 32, 34, 37-40, and 50 are moot for at least the reasons described for Claim 1, 12, 23, or 35, as applicable, and Applicants accordingly request allowance of Claims 3-5, 8, 14-16, 19, 21, 25, 27, 32, 34, 37-40, and 50.

Dependent Claims 43, 46, and 49

Dependent Claims 43, 46, and 49 depend from and further define Claims 41, 44, and 47, respectively. The dependent claims recite numerous additional distinctions over the cited references. In addition, Applicants respectfully submit that the rejections to dependent Claims 43, 46, and 49 are moot for at least the reasons described for Claim 41, 44, or 47, as applicable, and Applicants accordingly request allowance of Claims 43, 46, and 49.

Dependent Claims 6-7, 9-11, 17-18, 20, 22, 26, 28-31, 33, 36, and 51-56

Dependent Claim 56 is new and is supported by Table IV. Dependent Claims 6-7, 9-11, 17-18, 20, 22, 26, 28-31, 33, 36, and 51-56 depend from and further define one of Claims 1, 12,

Appl. No. : 10/754,917
Filed : January 9, 2004

23, and 35, or a dependent thereof. The dependent claims recite numerous additional distinctions over the cited references.

In addition, in view of the amendments to the independent claims, Applicants submit that Chen does not teach or suggest the claimed methods or set of physical computer control cards, and therefore, even in combination with Lawton, Luebbert, Se, Treiber, Wuschack, or Lowe, a *prima facie* case of obviousness has not been established. The "To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art," *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974), see also M.P.E.P. § 2143.03. Applicants accordingly request allowance of Claims 6-7, 9-11, 17-18, 20, 22, 26, 28-31, 33, 36, and 51-56.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

SUMMARY

In view of the foregoing amendments and remarks, Applicants respectfully request the Examiner to withdraw the rejections of the Claims under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a). Applicants further request the Examiner to allow Claims 1, 3-12, 14-23, 25-41, 43-47, 49, and 50-56 and to pass the present application to the issue process.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Appl. No. : 10/754,917
Filed : January 9, 2004

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: Feb. 11, 2008

By: Michael S. Okamoto
Michael S. Okamoto
Registration No. 47,831
Attorney of Record
Customer No. 20,995
(310) 551-3450

4833531_3
020808